

## Q&A

### 9-Month Faculty Deferral and 409A

We have compiled a Q&A to assist you as you consider whether to change how you are being paid as a 9-month faculty member. As you know, you have until April 30 to select the payment plan that is right for you. If you have a question that isn't addressed here, please contact the Human Resources & Payroll Customer Service Center at 703-993-2600.

**1. I am a 12-month faculty member. Does this impact me?**

No. Only 9-month faculty members have a choice of payment plan during the open enrollment period. They may choose to be paid over 9 months or defer a portion of their pay to be paid over 12 months. 12-month faculty members are not impacted because they do not defer their pay to be paid over 12 months; they are always paid over 12 months.

**2. As a 9-month faculty member what choices do I have?**

An open enrollment period is underway through April 30. During this time, 9-month faculty may elect to change from 9-month paid over 12 months to 9-month paid over 9 months or vice versa. The choice made will be effective at the start of the next academic year on August 25, 2009.

**3. 409A came up during last year's open enrollment in March. What's different this year?**

The IRS & Treasury Department have issued three key pieces of guidance to further clarify the regulation known as 409A. Taken together, this guidance has potentially significant tax implications for the faculty member.

**4. Does this impact all 9-month faculty paid over 12 months?**

These changes primarily impact 9-month faculty whose base compensation is over \$140,000 and who defer some portion of their compensation in order to be paid over 12 months. As a result, Mason must address how deferred pay is handled as the tax implications to the employee can be extensive.

**5. What does base compensation mean? Does it include summer pay?**

Base compensation includes regular contracted pay, plus stipends. For the purposes of 409A, it does not include summer pay or summer research pay.

**6. How extensive can these tax implications be?**

The IRS has ruled that additional taxes and penalties will be imposed on the employee should the deferral amount (9 paid 12) exceed the IRS limits.

The deferral amount will be reported on the employee's W-2 and income taxes will be due on that amount.

Additionally, a penalty equal to 20% of the amount of the deferral in the calendar year, and an interest charge equal to the underpayment rate plus 1% will be assessed. The details of these changes can be seen in a December 2008 [Federal Register](#).

**7. Are you saying that highly compensated 9-month faculty may have to pay a penalty to the IRS for deferring their pay?**

Yes.

**8. I don't make \$140,000 but I am concerned. How can I be sure that 409A will not impact me?**

Elect to be paid over 9 months.

**9. I am highly compensated and I don't want to pay the penalty or potential interest. Is there something I can do?**

Yes. If you change from being paid over 12 months to being paid over 9 months you will avoid the 409A penalty and potential interest. You can then use direct deposit with your bank or credit union to save those funds that you used to defer. You will achieve the same result but you will not be impacted by 409A.

**10. How do I participate in the open enrollment process? Do I need to complete a form even if I don't want to make a change to my payment plan?**

You might.

- All 9-month faculty being paid over 9 months who do not wish to change their pay plan do not need to do anything.
- Any 9-month faculty who wish to change pay plans will need to complete an [9-Month Faculty Pay Selection Form open enrollment form](#)
- All 9-month faculty being paid over 12 months *and whose compensation is \$100,000 or more* will need to complete a [form](#) this year even if you do not wish to change pay plans. We need to have you complete the form to verify that you have been made aware of the important tax implications associated with 409A.

**11. What if I need to consult my tax advisor or I'm just not sure? Can I let HR & Payroll know if I want to make a change after April 30 but before August 25?**

In order to remain compliant, all forms must be returned by the April 30, 2009 deadline.

**12. How long is this decision in effect?**

It is in effect for the next academic year and cannot be changed until the next open enrollment period.

**13. What happens next year?**

Next year and in future years, current 9-month faculty will be able to participate in open enrollment periods but there will be only one choice of pay selection change. Current 9-month faculty may change from being paid over 12 months to being paid over 9 months. They will not be able to move from being paid over 9 months to being paid over 12 months.

**14. What happens to our new colleagues who are hired in the future?**

All future 9-month faculty hired for this coming academic year and beyond will be automatically placed in the 9-month paid over 9 month pay plan. They will not be eligible to participate in any future open enrollment periods.

**15. Will Mason report the deferred pay to the IRS retroactively back in time?**

No. The regulation is effective in the calendar year 2009.

**16. Does this impact my 403(b) or 457 accounts?**

If you move from being paid over 12 months to being paid over 9 months, you will want to ensure that your contribution amount to your supplemental retirement account(s) is updated to reflect that you are now being paid over 9 months. Please complete a new [Salary Reduction Agreement](#) and send it to the HR & Payroll office at Mailstop 3C3.

**17. I didn't see my question here. Who can I call?**

Contact the HR & Payroll office at (703) 993-2600. Our Customer Service Specialists can direct your specific question to the appropriate staff member.

April 2009